

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 12-6867-CAS (Ex)	Date	September 9, 2013
Title	OCEANS II INC ET AL. V. SKINNERSVISION INC ET AL.		

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Laura Elias

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants

Aris Karakalas

Not Present

Proceedings: **PLAINTIFFS MOTION FOR DEFAULT JUDGMENT**
(filed August 2, 2013)

On August 8, 2012, plaintiffs Oceans II, Inc, Sonny Gunther, and Debra Kennard filed suit against defendants Kevin Skinner (“Skinner”) and Skinnervision, Inc. (“Skinnervision”). In brief, plaintiffs’ complaint alleges that Skinner, through his company Skinnervision, agreed to produce a movie with plaintiffs and then failed to make the movie. Plaintiffs’ complaint alleges breach of contract claims against Skinnervision, and fraud claims against Skinner.

On August 2, 2013, plaintiffs moved for default judgment on their fraud claims against Skinner. These fraud claims allege that “Skinner repeatedly told [plaintiffs] that he intended to fund the Film. . . . The funding did not take place.” Mot. 17. Because funding the film was a key component of the contract between plaintiffs and Skinnervision, plaintiffs are essentially alleging that Skinner fraudulently promised them that Skinnervision would follow through on the contract.

The Court finds that recovery on these fraud claims is barred by the doctrine of double recovery. The Court previously granted default judgment against defendant Skinnervision on plaintiffs’ claims for breach of contract. Dkt. 20. Awarding plaintiffs a second recovery against Skinner for the same failure to produce a movie that supports their contract claims against Skinnervision would give plaintiffs an improper double recovery. See, e.g., Ross v. Ross, 2002 WL 1824959 (Cal. Ct. App. Aug. 8, 2002) (“[T]he contract and fraud causes of action

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in her complaint are essentially based on the same facts [R]ecover is thus ‘limited by the rule against double recovery.’” (quoting Lazar v. Superior Court, 12 Cal. 4th 631, 649 (1996)); Sorayama v. Robert Bane Ltd. Inc., 380 F. App'x 707, 709 (9th Cir. 2010) (“We therefore vacate the awards for breach of contract, conversion, and breach of fiduciary duty, and remand for the district court to adjust the awards to the extent that Sorayama's tort and contract recoveries may be duplicative.”). Given that Skinner cannot now assert a claim for fraud, there is no basis for an award of punitive damages, and the request for punitive damages is also denied.

At oral argument, held on September 9, 2013, plaintiffs clarified that they were not attempting to seek a double recovery. Instead, plaintiffs aver that the purpose of their motion for default is to hold Skinner jointly liable for the previous default judgment against Skinnervision because Skinnervision is defunct. Plaintiffs further suggested at oral argument that Skinner is an alter ego of Skinnervision. If Skinner is an alter ego of Skinnervision, then Skinner would be jointly and severally liable for the default judgment already entered on the breach of contract claims against Skinnervision.

At present, however, the Court lacks information showing that Skinner is in fact an alter ego of Skinnervision. Accordingly, plaintiffs are directed to, on or before September 20, 2013, submit further documentation showing that Skinner is an alter ego or successor in liability to Skinnervision, and thus should be held jointly and severally liable on the default judgment previously entered against Skinnervision.

IT IS SO ORDERED.

Initials of Preparer

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